

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----X
GERALDO MENA,

Plaintiff,

v.

COMMISSION HEARING OFFICER GUTWEIN :
and MARYANN HOLLAND, :
Defendants. :**ORDER**

19 CV 3882 (VB)

On September 8, 2020, the Court issued an Opinion and Order in this case, granting in part and denying in part defendants' motion to dismiss. (Doc. #26). That same day, the Court scheduled an initial case management and scheduling conference in this matter for October 21, 2020, at 2:00 p.m. (Doc. #27). On September 11, 2020, the Court ordered the parties to file on the ECF docket their proposed Civil Case Discovery Plan and Scheduling Order by October 14, 2020. (Doc. #28). Chambers mailed a copy of these three documents to plaintiff, who is proceeding pro se and in forma pauperis, at the address on the docket. None of these documents was returned to the Court as undeliverable.

Defendant's counsel appeared telephonically for the October 21, 2020, conference. Plaintiff, however, failed to appear for the conference without excuse or explanation. The Court adjourned the initial case management conference to November 19, 2020, at 3:00 p.m., to proceed by telephone, and warned plaintiff in bold and underlined typeface that if he failed to appear at the November 19, 2020, conference, the Court would deem plaintiff to have abandoned this case and dismiss the case for failure to prosecute or comply with Court Orders. (Doc. #32). Chambers mailed a copy of the October 21, 2020, Order to plaintiff at the address on the docket. It was not returned to the Court as undeliverable.

On November 19, 2020, defendant's counsel appeared telephonically for the scheduled conference. Again, plaintiff failed to appear, without excuse or explanation.

Accordingly, having considered all of the factors set forth in Lucas v. Miles, 84 F.3d 532 (2d Cir. 1996), the Court deems plaintiff to have abandoned this case and dismisses this case with prejudice for failure to prosecute and failure to comply with Court orders. Fed. R. Civ. P. 41(b).

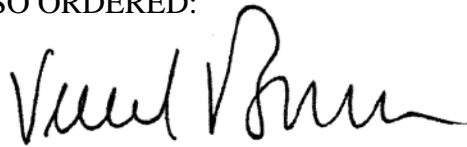
The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore in forma pauperis status is denied for the purposes of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444–45 (1962).

Chambers will mail a copy of this Order to plaintiff at the address on the docket.

The Clerk is instructed to close this case.

Dated: November 19, 2020
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent Briccetti', written over a horizontal line.

Vincent L. Briccetti
United States District Judge